

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STEPHEN RAAB,

Plaintiff,

v.

CV 22-0920 SCY/JHR

CARBONBUILT, INC.,

Defendant.

**ORDER SETTING CASE MANAGEMENT DEADLINES
AND DISCOVERY PARAMETERS**

THIS MATTER came before the Court on a telephonic Rule 16 scheduling conference held on January 30, 2023. Defense counsel Jeffrey Gersh was present. Plaintiff's attorney Scott Fuqua was noticed for this proceeding but failed to appear. Judge Ritter called his office at 9:05 a.m. and left a voicemail message reminding him of the conference and providing the call-in number and passcode again. Judge Ritter waited on the conference line until 9:10 a.m. without Mr. Fuqua appearing. With Mr. Gersh's consent, Judge Ritter provided a date for amendments "following results of discovery" as requested in the Joint Status Report and Provisional Discovery Plan ("JSR") and provided dates for discovery motions and pretrial motions per the calculator. Mr. Fuqua may request that the scheduling conference resume if he objects to those dates. Otherwise, the parties' requests in the JSR are adopted and the Court will permit the following discovery:

- a) Maximum of thirty (30) Interrogatories per party;
- b) Maximum of thirty (30) Requests for Production per party;
- c) Maximum of thirty (30) Requests for Admission per party;
- d) Maximum of two (2) depositions by Plaintiffs and two (2) depositions by Defendants.

- e) Depositions of all witnesses limited to seven (7) hours unless otherwise agreed by the parties.

Service of interrogatories or requests for production shall be considered timely only if the responses are due prior to the deadline. A notice to take deposition shall be considered timely only if the deposition takes place prior to the deadline.

The Court has set the following management deadlines:

- a) Deadline for Plaintiffs to move to amend pleadings/ add additional parties¹: February 28, 2023
- b) Deadline for Defendant to move to amend pleadings/add additional parties¹: February 28, 2023
- c) Plaintiffs' Rule 26(a)(2) expert disclosure²: April 30, 2023
- d) Defendant's Rule 26(a)(2) expert disclosure²: April 30, 2023
- e) Termination date for discovery: May 31, 2023
- f) Motions relating to discovery to be filed by: June 7, 2023
- g) Pretrial motions other than discovery motions (including motions which may require a *Daubert* hearing) filed by³: July 12, 2023
- h) Pretrial Order from Plaintiff to Defendant: date to be set by U.S. Magistrate Judge Yarbrough presiding by consent.

¹Federal Rule of Civil Procedure 16 requires that the Court set a deadline for amendment of pleadings and joinder of parties. A party seeking to amend the pleadings after the above dates must both demonstrate good cause to amend the scheduling order as required by Federal Rule of Civil Procedure 16(b) and satisfy the requirements for amendment under Federal Rule of Civil Procedure 15(a). *See, e.g., Gorsuch Ltd., B.C. v. Wells Fargo Nat. Bank Ass'n*, 771 F.3d 1230, 1242 (10th Cir. 2014).

² Parties must disclose the names of all expert witnesses, including treating physicians, the subject matter on which the experts will present evidence, and a summary of the facts and opinions to which the experts are expected to testify by this date. Experts who are retained or specifically employed to provide expert testimony must also submit an expert report by this date. *See* Fed. R. Civ. P. 26(a)(2). The parties must have their retained expert(s) ready to be deposed at the time they identify them and provide their reports. Expert witnesses who are not required to provide a written report may be deposed before summary disclosure.

³ This deadline applies to motions related to the admissibility of experts or expert testimony that may require *Daubert* hearing, but otherwise does not apply to motions in limine. The presiding judge will set a deadline for the submission of motions in limine and other trial-related deadlines in a separate order.

- i) Pretrial Order due to Court: date to be set by U.S. Magistrate Judge Yarbrough presiding by consent.

Pursuant to Federal Rule of Civil Procedure 16(b)(3)(B)(v), “before moving for an order relating to discovery, the movant must request a conference with the court” to attempt to informally resolve the dispute. Discovery motions that fail to conform to this requirement may be summarily denied. Any extension of the case management deadlines must be approved by the Court. Any requests for additional discovery must be submitted to the Court by motion prior to the expiration of the discovery.



JERRY H. RITTER
UNITED STATES MAGISTRATE JUDGE